

## APPENDIX IV

### OFFICE OF THE INSPECTOR GENERAL ANALYSIS AND SUMMARY OF ACTIONS NECESSARY TO CLOSE THE REPORT

The OIG provided a draft of this report to the ODAG, OJP and COPS. The ODAG's response is incorporated as Appendix I of this report. OJP's response is incorporated as Appendix II, and COPS' response is incorporated as Appendix III. The following provides the OIG analysis of the responses and summary of actions necessary to close the report.

#### **Recommendation Number:**

1. **Resolved.** The ODAG concurred with our recommendation to convene a working group comprised of DOJ components using or with an interest in using UAS to determine whether DOJ requires a UAS specific policy to address privacy and legal concerns and to identify and address UAS policy concerns shared across components or requiring coordination among other federal agencies. The ODAG stated that in August 2013, it directed the Office of Legal Policy (OLP) to convene a working group composed of several DOJ components, including the Office of Privacy and Civil Liberties, to identify and address any policy and legal issues pertaining to the use of UAS for surveillance purposes. According to ODAG, this working group will make a recommendation to DOJ leadership on the need for any DOJ policies or guidance specific to UAS, and will work to develop any such policies or guidance as needed.

However, ODAG also states that it is participating in an interagency process that is considering UAS-related policy issues that are shared across departments and agencies. The ODAG believes that this interagency process will satisfy the recommendation that DOJ identify and address the need for UAS policy concerns.

This recommendation can be closed when we obtain a list of components comprising the DOJ working group and receive evidence that the DOJ working group has met, considered the substance of any privacy-related deliberations as well as the scope and content of any UAS-related policies resulting from DOJ's involvement in the UAS interagency process, and that the working group has reached a

conclusion on whether DOJ-specific policy to address privacy and legal concerns of UAS operations is warranted.

2. **Closed.** The ODAG concurred with our recommendation to consider whether to solicit DOJ's admission to the UAS Executive Committee so that DOJ can be involved in formal discussions with other Executive Branch agencies regarding UAS issues. The ODAG states that DOJ is now participating in alternative, formal discussions with other departments and agencies about a range of issues related to UAS use. The OIG considers DOJ's participation in this alternate interagency process sufficient to close this recommendation.
3. **Resolved.** OJP concurred with our recommendation to assess and enhance its ability to track UAS-related awards to ensure that it can readily identify how DOJ award funds have been used to support UAS technology.

OJP indicates that it has added new project identifiers to its Grants Management System (GMS) to enhance its ability to track UAS-related awards. OJP also states that individual grant files will include these descriptors which will allow OJP bureaus and program offices to identify the grants during the award process.

In addition to using the project identifier feature, OJP indicates that it can conduct key word searches to access UAS-related awards. OJP states that the Bureau of Justice Assistance (BJA) can access UAS-related awards through its Performance Measurement Tool (PMT). Although OJP states that it can access UAS-related awards through keyword searches and project identifiers in GMS and PMT, it has not provided sufficient documentation to demonstrate how these tools will be used.

This recommendation can be closed when we receive evidence, including a demonstration, of how these new search terms and tools actually enhance OJP's ability to identify UAS-related awards.

4. **Resolved.** COPS concurred with our recommendation to review its award tracking system to ensure that UAS awards will be tracked accurately and expeditiously.

COPS stated that none of its current programs lend themselves to funding UAS. For future programs, COPS states that it will re-evaluate prospective program statutory language, determine the

funding UAS. For future programs, COPS states that it will re-evaluate prospective program statutory language, and determine the allowability of funding a UAS. Should COPS determine that funding a UAS is allowable, it will notify FBI, ATF, DEA, and USMS of future UAS awards and work with these components to identify and share relevant data derived from UAS-funded awards.

This recommendation can be closed when we receive evidence that DOJ UAS Working Group has met and developed a documented method for DOJ awarding components to identify and share relevant data derived from DOJ funded UAS projects with DOJ law enforcement components, allow those components to share their expertise with UAS award recipients, and provide a venue for DOJ to receive feedback on law enforcement needs to ensure that DOJ-funded local use of UAS does not affect ongoing DOJ law enforcement initiatives.

funding UAS. For future programs, COPS states that it will re-evaluate prospective program statutory language, and determine the allowability of funding a UAS. Should COPS determine that funding a UAS is allowable, it will establish enhanced reporting requirements. COPS also stated that it is not currently funding UAS and should it decide to fund UAS in the future, it will establish enhanced reporting requirements at that time.

This recommendation can be closed when we receive evidence of the components' review of their performance measures related to UAS awards and determination of additional reporting requirements. With respect to OJP, such review should include not only the State and Local JAG Programs, but any OJP grant program. Further, such evidence should show that these reporting requirements will obtain uniform UAS information and will identify issues local law enforcement may encounter. As noted in the report, components could consider whether to include as reporting requirements: (1) the specific UAS models acquired, (2) the frequency and manner with which the recipient used or tested UAS, (3) what type of data was collected by UAS and whether the recipient had UAS-specific policies, (4) how collected data was used in an investigation and subsequently safeguarded, (5) any problems encountered during operation or other concerns, and (6) best practices identified by the recipient that pertain to UAS operations and testing.

6. **Resolved.** OJP and COPS concurred with our recommendation to require that grant applicants demonstrate that they can meet prerequisites necessary to become authorized to operate a UAS.

OJP provided evidence that BJA has included language in its FY 2013 JAG solicitations regarding BJA Director approval for UAS-related technology expenditures. OJP stated that if any JAG award funds are budgeted for these expenditures an additional special condition will be added to the award to verify the prerequisites necessary to become authorized to operate the UAS. OJP states that BJA grant managers will review these requirements and ensure grantee compliance as a part of its programmatic monitoring.

COPS stated that none of its current programs lend themselves to funding UAS. For future programs, COPS states that it will re-evaluate prospective program statutory language and determine the allowability of funding a UAS. Should COPS determine that funding a UAS is allowable, it will require the grant applicants demonstrate that they can meet the prerequisites necessary to become authorized to

operate a UAS and will add appropriate language to the award terms and conditions.

However, we believe it is necessary for both COPS and OJP to memorialize in a written communication to its program offices the need to develop UAS prerequisites for any future awards that applicants will have to meet. Further, we note that it appears that BJA does not plan to communicate to future applicants that prerequisites will be required until after it awards UAS-related grants.

This recommendation can be closed when we receive evidence that OJP will communicate the existence of any prerequisite requirements to future applicants for UAS-related funding prior to making awards and when we receive evidence that both OJP and COPS have made written communications to their program offices regarding UAS prerequisite development.

7. **Resolved.** OJP and COPS concurred with our recommendation to update the December 2012 award coordination memorandum to ensure that NIJ is included as a participant in UAS award coordination efforts.

OJP and COPS state that they will work together to update the December 2012 Memorandum of Understanding between the COPS Office and BJA to include NIJ in collaboration and information-sharing efforts related to UAS awards.

This recommendation can be closed when we receive evidence that OJP and COPS have updated the Memorandum of Understanding to include NIJ in UAS-award coordination efforts.

8. **Resolved.** OJP and COPS concurred with our recommendation to notify the FBI, ATF, DEA, and USMS of future UAS awards and work with these components to identify and share relevant data derived from UAS projects funded with DOJ awards.

OJP indicates it believes that the DOJ UAS Working Group, currently comprised of representatives from NIJ and the DOJ law enforcement components is the appropriate forum to coordinate and share information on UAS-related activities. OJP further states that NIJ is representing all OJP bureaus and program offices at this working group.

COPS stated that none of its current programs lend themselves to

allowability of funding a UAS, and ensure that all future UAS awards are tracked accurately and expeditiously.

Although COPS is not currently funding UAS, as noted in our report, COPS did solicit a UAS-related award in 2013. Therefore, OIG would expect that COPS will review its award tracking system and method of identifying award funding for UAS uses to ensure that current and any future UAS awards can be tracked accurately.

This recommendation can be closed when we receive evidence of COPS' review of its award tracking system, including a demonstration of how COPS' system can account for UAS-related awards.

5. **Resolved.** OJP and COPS concurred with our recommendation to establish enhanced reporting requirements and use reported information to measure the effectiveness of their UAS awards.

OJP has provided evidence beginning with its fiscal year (FY) 2013 cycle, that all grants awarded under the Edward Byrne Memorial Justice Assistance Grant (JAG) Programs (State and Local), will include a special condition that requires BJA Director approval prior to expending JAG funds on unmanned aircraft, unmanned aircraft systems, or aerial vehicles. This special condition will also state that JAG funding approved for this purpose would be subject to additional reporting, which would be stipulated by BJA post-award. OJP also states that BJA will review existing JAG performance measures to determine if additional questions, related to UAS, should be added to its PMT to collect data on the effectiveness of such purchases awarded under future grants.

However, this recommendation is not limited to a particular grant program, and OJP should ensure that any grant program capable of funding UAS also include similar stipulations and conditions. Furthermore, OJP has not specified what additional reporting requirements will be implemented or what types of information will be collected.

OJP further states that the National Institute of Justice (NIJ) already establishes performance and evaluation criteria as part of its UAS-related awards, and disseminates research results to the criminal justice community. OIG notes that the report took no issue with the reporting under NIJ's cooperative agreements.

COPS stated that none of its current programs lend themselves to